

# EXHIBIT 1

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 COMMODITY FUTURES TRADING COMMISSION,

4 PLAINTIFF,

5 -against- Case No.:  
6 22-cv-4563 (AKH)

7 GEMINI TRUST COMPANY, LLC,

8 DEFENDANT.

9 -----X

10  
11 DATE: February 28, 2024

12 TIME: 9:32 A.M.

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14  
15 CONFIDENTIAL VIDEOTAPED REALTIME

16 DEPOSITION of the Defendant, CAMERON

17 WINKLEVOSS, taken by the Plaintiff,

18 pursuant to a Subpoena and to the Federal

19 Rules of Civil Procedure, held at the

20 offices of Commodity Futures Trading

21 Commission (CFTC), 290 Broadway, 6th Floor,

22 New York, New York 10007, before Karyn

23 Chiusano, a Notary Public of the State of

24 New York.

1 A P P E A R A N C E S:

2 Commodity Futures Trading Commission  
3 Attorneys for the Plaintiff  
4 COMMODITY FUTURES TRADING COMMISSION  
5 290 Broadway ~ 6th Floor  
6 New York, New York 10007  
7 BY: ANDREW RODGERS, ESQ.  
8 arodgers@cftc.gov

9 BAUGHMAN KROUP BOSSE  
10 Attorneys for the Defendant  
11 GEMINI TRUST COMPANY  
12 1 Liberty Plaza ~ 46th Floor  
13 New York, New York 10006  
14 BY: JACK BAUGHMAN, ESQ.  
15 jbaughman@bkbfirm.com

16 ALSO PRESENT:

17 PAUL BAKER, Videographer  
18 ELIZABETH LEE, ESQ.  
19 DIANA WANG, ESQ.

20 BRETT TOMER, ESQ.

21 KATIE RASOR, ESQ.

22 DAVID OAKLAND, ESQ., via Zoom

23 ALEJANDRA de URIOSTE, ESQ., via Zoom

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F E D E R A L   S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between the counsel for the respective parties herein that the sealing, filing and certification of the within deposition be waived; that the original of the deposition may be signed and sworn to by the witness before anyone authorized to administer an oath, with the same effect as if signed before a Judge of the Court; that an unsigned copy of the deposition may be used with the same force and effect as if signed by the witness, 30 days after service of the original & 1 copy of same upon counsel for the witness.

IT IS FURTHER STIPULATED AND AGREED that all objections except as to form, are reserved to the time of trial.

\* \* \* \*

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2 I wasn't going to talk about  
3 those conversations.

4 A. But I think if we look at every  
5 single major bank in Manhattan, who has a  
6 -- you know, a -- a brokerage in private  
7 wealth business, those banks are also going  
8 to be lending.

9 So, I -- I think there's --  
10 there's nothing abnormal of -- for -- for a  
11 company to provide multiple different  
12 services, such as trading and -- and  
13 lending and borrowing all in the same  
14 universe.

15 I think that's just important  
16 to note. And --

17 Q. But Gemini was not permitted to  
18 do that under its charter with DFS. It  
19 could not provide those services that you  
20 just outlined.

21 A. I'm just making the simple  
22 point that there are plenty of businesses  
23 in traditional finance, where the CEO of a  
24 -- is -- there's a CEO of a business that  
25 engages in lending to its customers that

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2 also trade in the financial markets.

3 There's nothing improper or  
4 wrong. And if there were, then that would  
5 mean that there would be something  
6 problematic with every major bank in -- in  
7 Manhattan.

8 In this case, it's obviously  
9 different than that. We're talking about  
10 an independent entity, which we have  
11 established. And Gemini did not make those  
12 loans.

13 And so, I think that's worth  
14 pointing out.

15 Q. And in your statement that  
16 there's nothing improper about being the  
17 President of Gemini, while also being a  
18 Manager of PearlStreet, are you relying on  
19 the advice of Counsel?

20 MR. BAUGHMAN: Hang on a  
21 second.

22 Q. It's a yes/no question: Are  
23 you relying on the --

24 MR. BAUGHMAN: I don't -- I  
25 don't actually know -- it's clever,

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2 but I have to think about it for a  
3 second.

4 (Whereupon, a short recess was  
5 taken.)

6 MR. BAUGHMAN: Let me read it  
7 back.

8 I'm going to instruct you not  
9 to answer the question, but I'm going  
10 to ask you just to rephrase it; okay?

11 I think you can ask the  
12 question: Setting aside any advice  
13 you've received from Counsel, what do  
14 you believe?

15 But I don't think I can let him  
16 answer that question, without  
17 revealing attorney-client  
18 information.

19 So, I will instruct him not to  
20 answer that one, though.

21 MR. RODGERS: Let's see if he  
22 we can get through this:

23 Q. Your statement is that there's  
24 nothing improper about being the President  
25 of Gemini, while also being the Manager of

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2 there's some confusion, let's clean  
3 it up, but we are not waiving  
4 anything.

5 MR. RODGERS: I understand.

6 And I'm not trying to breach  
7 any attorney-client confidences.

8 Q. I just want to understand,  
9 whether your position that there's nothing  
10 inappropriate about PearlStreet loans and  
11 your role, as Manager of PearlStreet and  
12 President of Gemini, if -- if that position  
13 -- if you're taking that position, based on  
14 the advice of Counsel?

15 A. Um --

16 MR. BAUGHMAN: I don't -- I  
17 don't -- I'm going to instruct you  
18 not to the answer that question.

19 I think that is clearly  
20 designed to impinge on the  
21 attorney-client privilege.

22 Q. Let's maybe -- let me make sure  
23 the record is clear:

24 Are you relying on the advice  
25 of -- of Counsel, when you state that



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2 "there's nothing improper about PearlStreet  
3 loans"?

4 A. I'm relying on more than just  
5 conversations with Counsel.

6 Q. What else are you relying on?

7 A. Well, if -- if that's --  
8 position were actually true, and there was  
9 something problematic or improper, then it  
10 would be absurd. Ev- --every CEO of every  
11 major bank would be in violation of  
12 something, which clearly isn't the case.

13 And I've read our Supervisory  
14 Agreement. I know what is and is not  
15 permitted, and there's nothing permitting  
16 involvement with other independent entities  
17 that I'm aware of.

18 Q. Every CEO on Wall Street has a  
19 side business, where they provide loans to  
20 customers on an exchange that they operate?

21 MR. BAUGHMAN: Object to the  
22 form of the question.

23 A. If you look at Merrill Pro,  
24 Bank of America, Merrill Pro. I think it's  
25 the largest -- one of the largest prime

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2 to understand that there are numerous  
3 examples, where there's a CEO that is the  
4 ultimate decisionmaker, or a leader, of a  
5 corporate structure that involves both a  
6 lending business and a trading business,  
7 and there is absolutely nothing wrong, or  
8 improper, and -- and if -- if there were, I  
9 think financial markets would cease to work  
10 or be efficient, which sort of underscores  
11 the -- the -- the -- the absurdia of -- of  
12 taking a position like that.

13 Q. Who is your lawyer that  
14 provided advice regarding PearlStreet  
15 loans?

16 A. At the time, it was Ken  
17 Raisler, who was, at one point, I believe  
18 the General Counsel of the CFTC.

19 Q. And he -- he -- and Ken Raisler  
20 has a --

21 MR. RODGERS: Withdrawn.

22 Q. And does the last sentence, in  
23 here, says:

24 "Margin is, to me, the most  
25 obvious way to get an instant multiplier on

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 COMMODITY FUTURES TRADING COMMISSION,

4 PLAINTIFF,

5 -against- Case No.:  
6 22-cv-4563 (AKH)

7 GEMINI TRUST COMPANY, LLC,

8 DEFENDANT.

9 -----X

10  
11 DATE: February 29, 2024

12 TIME: 9:36 A.M.

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15 CONTINUED CONFIDENTIAL VIDEOTAPED  
16 REALTIME DEPOSITION of the Defendant,  
17 CAMERON WINKLEVOSS, taken by the Plaintiff,  
18 pursuant to a Subpoena and to the Federal  
19 Rules of Civil Procedure, held at the  
20 offices of Commodity Futures Trading  
21 Commission (CFTC), 290 Broadway, 6th Floor,  
22 New York, New York 10007, before Karyn  
23 Chiusano, a Notary Public of the State of  
24 New York.

25 Job No. CS6346514

1 A P P E A R A N C E S:

2 COMMODITY FUTURES TRADING COMMISSION  
3 Attorneys for the Plaintiff  
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11 GEMINI TRUST COMPANY  
12 1 Liberty Plaza ~ 46th Floor  
13 New York, New York 10006  
14 BY: JACK BAUGHMAN, ESQ.  
15 jbaughman@bkbfirm.com

16 ALSO PRESENT:

17 PAUL BAKER, Videographer  
18 ELIZABETH LEE, ESQ.  
19 DIANA WANG, ESQ.

20 DAVID OAKLAND, ESQ., CFTC, via Zoom

21 ALEJANDRA de URIOSTE, CFTC, via Zoom

22 STEPHEN HITT, ESQ., JFB Legal

23 KATHERINE RASOR, ESQ.

24 BRENT TOMER, ESQ.

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F E D E R A L   S T I P U L A T I O N S

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2 But as I also stated earlier,  
3 this was not price manipulation, this was a  
4 rebate fraud.

5 Q. You knew that the disclosing  
6 manipulative conduct to the CFTC would have  
7 raised more questions from the CFTC?

8 MR. BAUGHMAN: Object to the  
9 form of the question.

10 A. I have no reason to believe --  
11 I -- I don't know what the CFTC would have  
12 asked about it.

13 And if the CFTC asked -- we --  
14 we answered dozens and dozens of questions  
15 and multiple submissions throughout the  
16 summer and fall of 2017.

17 There's never -- there was  
18 never a question that went unanswered. And  
19 all of our answers were complete and  
20 accurate.

21 And everything in our behavior  
22 demonstrates our willingness to provide  
23 information on anything the CFTC requested.

24 And this was probably one of  
25 the longest self-certification processes.

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2 And then, we've agreed I'm just  
3 going to note the basis for my  
4 objection outside the presence of the  
5 witness, so there's no assertion of  
6 improperly witness -- influencing the  
7 witness.

8 And I just want to make two  
9 points for context using the  
10 questioning, based on sentences in  
11 Exhibit 54.

12 The first is: It is a brief --  
13 a post-trial brief filed in an  
14 arbitration by an entity, Winklevoss  
15 Capital Management, that is not a  
16 party to this proceeding. So, it's  
17 not a statement of a party adversary.

18 The second point is: Counsel  
19 has read statements -- sentences from  
20 the brief, but those are sentences  
21 that are -- have citations to the  
22 record in the arbitration.

23 So, these are sentences that  
24 are designed to summarize evidence  
25 that was presented in the

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2 arbitration.

3 They're not general statements,  
4 necessarily, in the sense they are  
5 being used here.

6 That's the basis for my  
7 objection.

8 We can continue.

9 MR. RODGERS: And is it your  
10 position that the statements are not  
11 supported by the evidence that's  
12 cited in the documents?

13 MR. BAUGHMAN: No.

14 That's not my position, but --

15 MR. RODGERS: And the  
16 statements in this document --

17 MR. BAUGHMAN: I'm not going to  
18 debate this.

19 MR. RODGERS: -- were accurate  
20 at the time that you made them in the  
21 arbitration, Mr. -- Mr. Baughman?

22 MR. BAUGHMAN: I'm not -- I'm  
23 not here to answer your questions.

24 I've made an objection.

25 We can proceed.



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2 product could not be certified for trading  
3 without the CFTC's consent?

4 A. I don't actually know that  
5 that's the case. I think that if it fits  
6 within the CFTC principles, just because  
7 the underlying asset is new does not  
8 necessarily mean it requires CFTC approval.

9 I could be -- I could be  
10 mistaken, but I do believe that it was a --  
11 ultimately filed as a self-certification  
12 application after a months long engagement  
13 with the commission.

14 But I don't know that there is  
15 anything preventing CBOE from filing that  
16 application in July.

17 And provided that the  
18 commission did not disapprove it, I believe  
19 it -- it would be approved. Or it would go  
20 forward.

21 Q. Is it fair to say that you knew  
22 that Gemini had to be truthful in the  
23 information it provided, in connection with  
24 the new product certification?

25 MR. BAUGHMAN: Object to the

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2 form.

3 A. Well, we are always truthful.

4 That's how we build our business of -- of  
5 trust. And that's -- that's how we  
6 operate. And this -- this -- the  
7 engagement with CBOE was no different.

8 All that being said, we  
9 provided information to CBOE, but we did  
10 not have control or agency on what  
11 information, necessarily, they chose or how  
12 they chose to present that to the CFTC.

13 Ultimately, they are the  
14 interface between us and the CFTC. We were  
15 not -- it's not our application.

16 Q. So, is it your testimony that  
17 the C- -- that CBOE provided information to  
18 the CFTC that Gemini did not authorize it  
19 to provide?

20 A. That's not my testimony.

21 Q. Do you understand that a  
22 product certification requires a detailed  
23 description of the cash market?

24 A. What do you mean by "cash  
25 market?"

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2 for the potential for manipulation or  
3 distortion of cash settlement prices?

4 MR. BAUGHMAN: Object to the  
5 form.

6 A. I'm sorry, what is the  
7 question?

8 Q. Do you understand that the CFTC  
9 gives careful consideration to the  
10 potential for manipulation or distortion of  
11 the cash settlement price of the futures  
12 contract?

13 MR. BAUGHMAN: Object -- object  
14 to the form.

15 A. I don't know what their  
16 approval process is.

17 All I know is that we got a lot  
18 of questions around our auction and the  
19 mechanics. And we answered every question  
20 that was asked of us. We provided truthful  
21 and accurate information.

22 What the CFTC deems to be  
23 appropriate or not, I -- I don't -- I don't  
24 know if there is -- what those rules are.

25 Q. Would you agree that Gemini

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2 MR. RODGERS: Withdrawn.

3 Q. Did you collaborate with the  
4 CBOE --

5 MR. BAUGHMAN: Pardon me.

6 Q. -- in connection with the  
7 self-certification of the bitcoin futures  
8 contract?

9 MR. BAUGHMAN: Object to the  
10 form.

11 A. I don't know what you mean by  
12 "collaborate." But as I testified earlier,  
13 we provided information, we were helpful,  
14 we were responsive, we were truthful, we  
15 were accurate.

16 MR. RODGERS: Can I see Tab 88,  
17 please?

18 Q. Is it your testimony today that  
19 Gemini was an innocent bystander in  
20 connection with the self-certification of  
21 the bitcoin futures contract?

22 MR. BAUGHMAN: Object to the  
23 form.

24 A. That's -- that's not my  
25 testimony.

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2 Q. Based on information that  
3 Gemini had provided to CBOE in connection  
4 with the self-certification; correct?

5 MR. BAUGHMAN: Object to the  
6 form.

7 A. Everything we provided was  
8 accurate. And we also engaged with them  
9 and had an ongoing dialogue.

10 And I have no reason to believe  
11 that they provided information that was  
12 also not accurate or complete. I have -- I  
13 have no reason to believe that.

14 Q. At the July 25th, 2017 meeting,  
15 did you tell the CFTC that at times there  
16 was no self-trade prevention in either the  
17 Gemini auction or on the Gemini exchange?

18 A. I -- it's -- it's possible a  
19 question was asked.

20 Again, I don't remember if I  
21 even spoke at this meeting. I was present.  
22 And this presentation, I believe, was an  
23 overview.

24 I don't -- I don't even know if  
25 this was responsive to any questions at

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2 reviewed information that Gemini presented  
3 to CBOE that was then later presented to  
4 CFTC.

5 I have no reason to -- to --  
6 and -- and having reviewed them through  
7 this deposition, once again, they're all  
8 accurate statements.

9 Q. So, he -- he stopped being a  
10 serial liar when he was working for Gemini?

11 MR. BAUGHMAN: Object to the  
12 form of the question.

13 A. There was no incentive for Mr.  
14 Small to lie to the CFTC or the CBOE. And  
15 his -- whatever statements that he was a  
16 party to or authored have been reviewed by  
17 multiple parties, and they're accurate.

18 And we've gone -- I've now gone  
19 through them -- through this deposition. I  
20 think I did a deposition with the CFTC two  
21 years ago.

22 We've made it very clear that  
23 they're truthful statements.

24 And we've also gone through an  
25 arbitration, I think it was a two-week

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2 A. I believe that he alleged in  
3 his complaint that there was something  
4 improper or illegal about the PearlStreet  
5 loans, and that they "inflated volume on  
6 the Gemini exchange," and that they were a  
7 secret or not.

8 And that he wasn't aware of  
9 them until right before he was suspended,  
10 which -- which is just not true. And --  
11 and all the evidence shows that he was  
12 fully aware of them.

13 Q. Well, who cares if he -- when  
14 he knew about it --

15 MR. BAUGHMAN: Please don't  
16 interrupt the witness.

17 A. They were -- they were not  
18 secret.

19 And we've been never told by  
20 anybody, including the CFTC, that there was  
21 anything wrong, illegal, or improper with  
22 PearlStreet loans.

23 Q. Did you ever ask the CFTC if it  
24 was improper for you to be the Manager of  
25 PearlStreet while also being the President

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2 evidence -- it's a fact that his complaint,  
3 with the false PearlStreet allegations, was  
4 -- was submitted or conveyed to the CFTC  
5 in -- in/or around November of 2017.

6 So, the CFTC has had since then  
7 to ask us, and we had never gotten a  
8 question from the CFTC during that process,  
9 or for, you know, months afterwards about  
10 PearlStreet loans.

11 And we've never been told that  
12 they were illegal or improper.

13 Q. Well, the CFTC brought this  
14 enforcement action.

15 Does that answer your question?

16 MR. BAUGHMAN: Object to the  
17 form of the question.

18 Q. Going back to the exhibit that  
19 has the draft declaration, there's a  
20 paragraph, in Paragraph 5, that says:

21 "The company and Senior  
22 Management always strive to comply with the  
23 law."

24 Do you see that?

25 A. Which paragraph?



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2 A. No.

3 Q. Were the PearlStreet loans kept  
4 a secret at Gemini during the time you  
5 worked there?

6 A. No.

7 Q. Did the CFTC ever ask Gemini  
8 about the source of funds or the sources of  
9 capital that Gemini customers used to trade  
10 on the Gemini exchange?

11 A. No.

12 Q. Did you -- were you ever asked  
13 a question by the CFTC that you believe  
14 called for information about the  
15 PearlStreet loans?

16 A. No.

17 Q. If you had been asked about the  
18 PearlStreet loans, would Gemini have  
19 provided information by -- to the CFTC?

20 MR. RODGERS: Objection to the  
21 form of the question.

22 Calls for speculation.

23 A. Can you repeat the question?

24 Q. Sure.

25 If, in 2017, during the

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2 self-certification process, the CFTC had  
3 asked a question, which you understood  
4 called for information about PearlStreet,  
5 would PearlStreet or Gemini have provided  
6 it?

7 MR. RODGERS: Same objection.

8 A. Yes.

9 Yes, is my answer.

10 Q. Now, do you recall being asked  
11 yesterday whether there came a point in  
12 time when PearlStreet stopped making loans?

13 Do you recall that topic  
14 yesterday?

15 A. Yes.

16 Q. And do you recall being shown a  
17 couple of spreadsheets that were Exhibit  
18 51-A and 51-B that had PearlStreet loans  
19 from 2016 to 2017?

20 Do you recall being shown those  
21 documents?

22 A. Yes.

23 Q. Okay. I'd like to show you  
24 what's been marked for -- as Exhibit 50- --  
25 501, please.

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followed, was that hidden from the CFTC in any way?

A. No.

Q. The C- -- if the CFT- -- the the CFTC had asked about the compliance rate for recordkeeping, in connection with the policy, would Gemini have provided such information?

A. Yes.

Q. To your knowledge, did Gemini ever refuse to answer any questions asked by the CFTC about operational advances?

A. No.

Q. Okay. Let me ask you to take out Exhibit 94, please.

(Witness complies.)

Q. Exhibit 94 --

MR. BAUGHMAN: I apologize.

This is the wrong exhibit.

This is not the one I want. I apologize.

Exhibit 73. Please take out

Exhibit 73.

(Witness complies.)

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2 attention an actual instance, ever, when  
3 folding occurred?

4 A. No.

5 Q. Are you aware -- well, is it  
6 correct that, in the summer of 2017, Gemini  
7 provided data about trading in the auction  
8 to the CFTC?

9 A. Yes.

10 Q. Is it your understanding that  
11 if there were instances of folding in that  
12 data, the CFTC could analyze it and  
13 identify them?

14 MR. RODGERS: Objection to the  
15 form of the question.

16 A. Yes.

17 Q. Has the CFTC ever identified a  
18 single instance of folding, to your  
19 knowledge?

20 A. No.

21 Q. If, in 2017, the CFTC had asked  
22 questions about folding, would Gemini have  
23 answered them?

24 MR. RODGERS: Object to the  
25 form.

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2 A. Yes.

3 Q. In 2017, did Gemini have any  
4 reason to keep --

5 MR. BAUGHMAN: Withdrawn.

6 Q. Now, do you recall being asked  
7 questions earlier today about whether or  
8 not you knew that certain things were  
9 important to the CFTC?

10 Do you recall that?

11 A. Yes.

12 Q. Did anyone from the CFTC ever  
13 give Gemini any guidance about what the  
14 CFTC considered important?

15 A. No.

16 Q. Did the CFTC, in 2017, ever  
17 give Gemini any guidance about what the  
18 CFTC considered material?

19 A. No.

20 Q. In 2017, did the CFTC ever give  
21 Gemini any information about what  
22 information the CFTC considered in making  
23 decisions?

24 A. I'm sorry, can you repeat the  
25 question?

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2 Q. Yeah.

3 In 2017, did the CFTC ever  
4 disclose to Gemini the information the CFTC  
5 considered in making decisions in  
6 connection with the self-certification  
7 process?

8 A. No.

9 Q. Did anyone from the CFTC ever  
10 indicate to Gemini, in any way, in 2017,  
11 that it was Gemini's responsibility to  
12 figure out what the CFTC thought was  
13 important?

14 A. No.

15 Q. In 2017, did anyone from the  
16 CFTC ever indicate to Gemini, in any way,  
17 that Gemini had a responsibility to figure  
18 out what the CFTC thought was material?

19 A. No.

20 Q. If the CFTC had told Gemini, in  
21 2017, what the CFTC thought was important,  
22 would Gemini have tried to provide that  
23 information?

24 A. Yes.

25 Q. Now, you were asked some

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2 investigation. And as part of that, I gave  
3 evidence via confidential written  
4 submissions, over the phone and at  
5 in-person meetings beginning on 1,  
6 November, 2017?"

7 A. Yes.

8 Q. Are you aware that counsel for  
9 the CFTC has not denied the truth of Mr.  
10 Small's statement?

11 A. Um --

12 Q. That there was communications,  
13 beginning on November 1, 2017, are you  
14 aware that the CFTC has not denied that?

15 MR. RODGERS: Objection.

16 A. I don't believe that they have.

17 If they had, I -- I probably  
18 would have heard of it.

19 Q. Okay. After November 1, 2017,  
20 did the CFTC ask any questions about the  
21 PearlStreet loans?

22 A. After --

23 MR. BAUGHMAN: Withdrawn.

24 Withdrawn.

25 Q. Between November 1, 2017 and

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2 December 1, 2017, did the CFTC ask any  
3 questions about the PearlStreet loans?

4 A. No.

5 Q. If they had, would Gemini had  
6 answered them?

7 A. Yes.

8 Q. Based on the topics that you  
9 know were raised in Mr. Small's  
10 whistleblowing complaint, did the CFTC ask  
11 you any questions that you believe were  
12 based on information provided in that  
13 whistleblower claim between November 1,  
14 2017 and December 1, 2017?

15 A. I'm sorry, can you repeat the  
16 question?

17 Q. Sure.

18 Are you aware of any questions  
19 the CFTC asked Gemini between November 1,  
20 2017 and December 1, 2017 that relate to  
21 topics raised in Mr. Small's so-called  
22 "whistleblower sub- -- submission"?

23 A. No.

24 Q. Are you aware that if Mr. Small  
25 were to testify in this case, he would have